

AMENDED IN ASSEMBLY APRIL 19, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1506**

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**Introduced by Assembly Member Arambula**

February 23, 2007

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An act to add Section 14075.5 to the Corporations Code, to add Section 63038 to the Government Code, and to add Sections 17053.97 and 23665 to the Revenue and Taxation Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1506, as amended, Arambula. Energy Independence and Early Adapter Business Incentive Act of 2007.

(1) The California Small Business Financial Development Corporation Law provides for the creation of nonprofit California small business financial development corporations that are authorized to, among other things, provide loans and loan guarantees, including granting energy efficiency improvement loans, to small businesses.

This bill would authorize a corporation to provide direct loans and loan guarantees for capital expenditures that reduce greenhouse gas emissions or generate renewable energy if specified requirements are met.

(2) The Bergeson-Peace Infrastructure and Economic Development Bank Act creates the California Infrastructure and Economic Development Bank, and charges it with responsibilities designed to carry out the purposes of the act. The act requires the bank to establish guidelines for the selection of projects to receive assistance from the bank.

This bill would authorize the bank, upon appropriation by the Legislature of funds for this purpose, to make loans on capital equipment

at interest rates that are below market interest rates if specified requirements are met, including a requirement that the loan applicant use the loan proceeds to purchase or retrofit equipment that will directly result in a measurable reduction of greenhouse gas emissions.

(3) The Personal Income Tax Law and the Corporation Tax Law authorize various deductions and credits in computing the taxes imposed by those laws.

This bill would, under both laws, allow a tax credit in an amount equal to 10% of the amount paid or incurred during the taxable year for qualified capital equipment certified by the *California Climate Action Registry* or the State Air Resources Board to result in measurable reductions in greenhouse gas emissions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 Energy Independence and Early Adapter Business Incentive Act  
3 of 2007.

4 SEC. 2. The Legislature finds and declares ~~all~~ *both* of the  
5 following:

6 (a) The increased costs of energy, combined with the physical,  
7 environmental, and regulatory risks associated with climate change,  
8 have resulted in a significant challenge for California businesses.

9 (b) In order for California companies to remain competitive in  
10 the global marketplace, it is necessary and appropriate for the state  
11 to provide incentives to businesses to reduce greenhouse gas  
12 emissions and increase our energy independence.

13 ~~(c) It is the intent of the Legislature that if the authority for the~~  
14 ~~California Climate Action Registry is repealed on January 1, 2008,~~  
15 ~~another mechanism be put in place for the reporting of greenhouse~~  
16 ~~gas emissions not required to be reported under Division 25.5~~  
17 ~~(commencing with Section 38500) of the Health and Safety Code,~~  
18 ~~so that the state may have a full accounting of greenhouse gas~~  
19 ~~emission reductions.~~

20 SEC. 3. Section 14075.5 is added to the Corporations Code,  
21 to read:

22 14075.5. (a) A corporation may provide direct loans and loan  
23 guarantees for capital expenditures that reduce greenhouse gas

1 emissions or generate renewable energy if all of the following  
2 requirements are met:

3 (1) The loan applicant is creditworthy and meets the  
4 underwriting standards otherwise required under the loan guarantee  
5 program.

6 (2) An alternative loan at a market interest rate is not available  
7 to the applicant.

8 (3) State income tax credits do not benefit the applicant in an  
9 amount that is sufficient for the applicant to justify the expenditure.

10 (4) The loan applicant reports its greenhouse gas emissions to  
11 the California Climate Action Registry or the State Air Resources  
12 Board.

13 (b) The agency, in consultation with the State Air Resources  
14 Board, shall determine whether a capital expenditure meets the  
15 requirements of subdivision (a).

16 (c) Notwithstanding any other law, it is the intent of the  
17 Legislature that, for each fiscal year beginning July 1, 2008, until  
18 December 31, 2011, funds appropriated for the purposes of this  
19 section shall be used on a priority basis for the purposes described  
20 in subdivision (a).

21 (d) The agency shall determine which size businesses are eligible  
22 for loan and loan guarantees under this section.

23 SEC. 4. Section 63038 is added to the Government Code, to  
24 read:

25 63038. The bank, upon appropriation by the Legislature of  
26 funds for this purpose, may make loans on capital equipment at  
27 interest rates that are below market interest rates if all of the  
28 following conditions are met:

29 (a) The loan applicant will use the loan proceeds to purchase  
30 or retrofit equipment that will directly result in a measurable  
31 reduction of greenhouse gas emissions. The bank, in consultation  
32 with the State Air Resources Board, shall determine whether the  
33 equipment meets that requirement.

34 (b) The bank determines all of the following:

35 (1) The applicant has the ability to repay the loan.

36 (2) An alternative loan at a market interest rate is not available  
37 to the applicant.

38 (3) State income tax credits do not benefit the applicant in an  
39 amount that is sufficient for the applicant to justify the expenditure.

1 (c) The loan recipient is a small business with less than 20  
2 employees.

3 (d) The loan recipient reports its greenhouse gas emissions to  
4 the California Climate Action Registry or the State Air Resources  
5 Board.

6 (e) Loans shall be made pursuant to this section on or after  
7 March 1, 2008. No loans may be made pursuant to this section  
8 after December 31, 2011.

9 SEC. 5. Section 17053.97 is added to the Revenue and Taxation  
10 Code, to read:

11 17053.97. (a) For purposes of this section, the following terms  
12 have the following meanings:

13 (1) ~~“Qualified capital equipment” means equipment that, when~~  
14 ~~properly installed, produces a measurable reduction in the qualified~~  
15 ~~facility’s greenhouse gas emissions.~~

16 (2) ~~“Qualified facility” means either of the following:~~

17 (A) ~~An existing facility of the taxpayer.~~

18 (B) ~~The expansion of an existing facility of the taxpayer, which~~  
19 ~~expansion is in the same location as, or adjacent to, an existing~~  
20 ~~facility of the taxpayer.~~

21 (3) ~~“State board” means the State Air Resources Board.~~

22 (b) ~~For each taxable year beginning on or after January 1, 2007,~~  
23 ~~and ending in taxable year 2011, there shall be allowed as a credit~~  
24 ~~against the “net tax,” as defined in Section 17039, an amount equal~~  
25 ~~to 10 percent of the amount paid or incurred during the taxable~~  
26 ~~year for qualified capital equipment.~~

27 (c) ~~Qualified capital equipment shall meet both of the following~~  
28 ~~requirements:~~

29 (1) ~~Be certified by the state board that it has been installed in a~~  
30 ~~qualified facility and is operational.~~

31 (2) ~~Be certified by the state board that its operation will result~~  
32 ~~in measurable reductions in greenhouse gas emissions.~~

33 (1) *“Qualified capital equipment” means equipment that meets*  
34 *all of the following requirements:*

35 (A) *Produces a measurable reduction in the qualified facility’s*  
36 *greenhouse gas emissions when properly placed in service and*  
37 *maintained.*

38 (B) *Is placed in service and used exclusively in California.*

39 (C) *Is certified by the California Climate Action Registry or the*  
40 *state board that it has been placed in service and is operational.*

1 (D) Is certified by the California Climate Action Registry or the  
2 state board that its operation will result in measurable reductions  
3 in greenhouse gas emissions.

4 (2) “Qualified facility” means either of the following:

5 (A) An existing facility of the taxpayer located in California.

6 (B) The expansion of an existing facility of the taxpayer, which  
7 is in the same location as, or adjacent to, an existing facility of  
8 the taxpayer located in California.

9 (3) “State board” means the State Air Resources Board.

10 (b) For each taxable year beginning on or after January 1,  
11 2008, and ending by January 1, 2012, there shall be allowed as a  
12 credit against the “net tax,” as defined in Section 17039, an  
13 amount equal to 10 percent of the amount paid or incurred during  
14 the taxable year for qualified capital equipment.

15 ~~(d)~~

16 (c) Eligible greenhouse gas reductions do not include those that  
17 are required by law or regulation. A taxpayer may claim a credit  
18 for a prorated share of the total cost of the equipment based on the  
19 additional greenhouse gas reduction value of the equipment. For  
20 this purpose, the state board shall establish a standard cost for  
21 equipment that meets existing law or regulations.

22 ~~(e)~~

23 (d) In the case where the credit allowed by this section exceeds  
24 the “net tax,” the excess may be carried over to reduce the “net  
25 tax” in the following year, and succeeding five years if necessary.

26 ~~(f)~~

27 (e) Credits may be claimed on qualified *capital* equipment  
28 placed in service in a qualified facility on or after ~~March~~ January  
29 1, 2008.

30 ~~(g)~~

31 (f) This section only applies to persons that report their  
32 greenhouse gas emissions, either on a voluntary or mandatory  
33 basis, to the California Climate Action Registry or the state board.

34 SEC. 6. Section 23665 is added to the Revenue and Taxation  
35 Code, to read:

36 23665. (a) For purposes of this section, the following terms  
37 have the following meanings:

38 ~~(1) “Qualified capital equipment” means equipment that, when~~  
39 ~~properly installed, produces a measurable reduction in the qualified~~  
40 ~~facility’s greenhouse gas emissions.~~

1     ~~(2) “Qualified facility” means either of the following:~~

2     ~~(A) An existing facility of the taxpayer.~~

3     ~~(B) The expansion or replacement of an existing facility of the~~  
4 ~~taxpayer, which expansion is in the same location as, or adjacent~~  
5 ~~to, an existing facility of the taxpayer.~~

6     ~~(3) “State board” means the State Air Resources Board.~~

7     ~~(b) For each taxable year beginning on or after January 1, 2008,~~  
8 ~~and ending in taxable year 2011, there shall be allowed as a credit~~  
9 ~~against the “tax,” as defined in Section 23036, an amount equal~~  
10 ~~to 10 percent of the amount paid or incurred during the taxable~~  
11 ~~year for qualified capital equipment.~~

12     ~~(e) Qualified capital equipment shall meet both of the following~~  
13 ~~requirements:~~

14     ~~(1) Be certified by the state board that it has been installed in a~~  
15 ~~qualified facility and is operational.~~

16     ~~(2) Be certified by the state board that its operation will result~~  
17 ~~in measurable reductions in greenhouse gas emissions.~~

18     ~~(1) “Qualified capital equipment” means equipment that meets~~  
19 ~~all of the following requirements:~~

20     ~~(A) Produces a measurable reduction in the qualified facility’s~~  
21 ~~greenhouse gas emissions when properly placed in service and~~  
22 ~~maintained.~~

23     ~~(B) Is placed in service and used exclusively in California.~~

24     ~~(C) Is certified by the California Climate Action Registry or the~~  
25 ~~state board that it has been placed in service and is operational.~~

26     ~~(D) Is certified by the California Climate Action Registry or the~~  
27 ~~state board that its operation will result in measurable reductions~~  
28 ~~in greenhouse gas emissions.~~

29     ~~(2) “Qualified facility” means either of the following:~~

30     ~~(A) An existing facility of the taxpayer located in California.~~

31     ~~(B) The expansion of an existing facility of the taxpayer, which~~  
32 ~~is in the same location as, or adjacent to, an existing facility of~~  
33 ~~the taxpayer located in California.~~

34     ~~(3) “State board” means the State Air Resources Board.~~

35     ~~(b) For each taxable year beginning on or after January 1,~~  
36 ~~2008, and ending by January 1, 2012, there shall be allowed as a~~  
37 ~~credit against the “tax,” as defined in Section 23036, an amount~~  
38 ~~equal to 10 percent of the amount paid or incurred during the~~  
39 ~~taxable year for qualified capital equipment.~~

40     ~~(d)~~

1 (c) Eligible greenhouse gas reductions do not include those that  
2 are required by law or regulation. A taxpayer may claim a credit  
3 for a prorated share of the total cost of the equipment based on the  
4 additional greenhouse gas reduction value of the equipment. For  
5 this purpose, the state board shall establish a standard cost for  
6 equipment that meets existing law or regulations.

7 ~~(e)~~

8 (d) In the case where the credit allowed by this section exceeds  
9 the “tax,” as defined in Section 23036, the excess may be carried  
10 over to reduce the “tax” in the following year, and succeeding five  
11 years if necessary.

12 ~~(f)~~

13 (e) Credits may be claimed on qualified *capital* equipment  
14 placed in service in a qualified facility on or after ~~March~~ January  
15 1, 2008.

16 ~~(g)~~

17 (f) This section only applies to entities that report their  
18 greenhouse gas emissions, either on a voluntary or mandatory  
19 basis, to the California Climate Action Registry or the state board.